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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/829,135	04/21/2004	Jeffrey Dunmire	JSCOTT.0002P	5469
32856	7590	08/04/2006	EXAMINER	
WEIDE & MILLER, LTD. 7251 W. LAKE MEAD BLVD. SUITE 530 LAS VEGAS, NV 89128			LAVINDER, JACK W	
			ART UNIT	PAPER NUMBER
			3677	

DATE MAILED: 08/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/829,135

Applicant(s)

DUNMIRE, JEFFREY

Examiner

Jack W. Lavinder

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,4 and 10-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4 and 10-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 10-11 have been rejected under 35 U.S.C. 103(a) as being unpatentable over [www.fdp-magnetics.com](http://www.fdp-magnetics.com) webpage copyrighted 2000-2002 in view of Fontana, 4625508.

The webpage discloses a silver/gold link bracelet with magnets embedded behind each link wherein the front face of the magnets are generally coplanar with the rear face of the link. The reference also discloses a clasp on each end of the plurality of links. The webpage fails to disclose the bracelet being made from titanium.

Fontana disclose a bracelet that can be made from titanium (col. 1, lines 35-45). Therefore, it would have been obvious to make the bracelet describe and shown in the webpage from titanium in order to produce a lighter and more wear resistant bracelet.

The webpage discloses a silver/gold link bracelet with magnets embedded behind each link wherein the front face of the magnets are generally coplanar with the rear face of the link. The webpage fails to disclose the relative size of the face of the magnet compared to the face of the whole link, i.e., the claim calls for the face of the magnet to be at least 50 or at least 75% of a total area comprising the rear of the main body and the face of the magnet.

With regard to the relative size of the magnet to the surface area of the link, the webpage discloses various size relationships between the link's surface area and the magnet's surface area. In order to increase the magnetic effect of the bracelet one skilled in the art would increase the size and surface area of the magnet, i.e. exposed surface area, and invariably increase the ratio between the surface area of the magnet and the surface area of the link. It would have been obvious to a person having ordinary skill in the art to use a larger magnetic surface area to provide an increase in the magnetic field delivered to the wearer. This increase would improve the alleged health benefits derived from wearing the bracelet.

3. Claims 4 and 12-18 have been rejected under 35 U.S.C. 103(a) as being unpatentable over [www.fdp-magnetics.com](http://www.fdp-magnetics.com) webpage copyrighted 2000-2002 in view of Fontana, 4625508 and Kundert, 2775093. The webpage discloses using a circular shape magnet in the rear surface of the link, but fails to disclose the claimed oval shaped magnet. The shape of the magnet is considered to be an obvious design choice. It would have been obvious to a person having ordinary skill in the art to change the shape of FDP's magnet to an oval shape in order to change the aesthetics of the bracelet and to increase and optimize the surface area of contact between the magnet and the wearer's skin to improve the alleged health benefits to the wearer. One of ordinary skill in the art would know to increase the magnetic surface of the magnet by changing the shape of the magnet in order to optimize the amount of available space provided on the rear of the link. If the available surface area of the link is substantially square, a circular shaped or square shaped magnetic would optimize the available

space needed to provide the optimal magnetic surface area. If the available surface area of the link is substantially rectangular, an oval shape or a rectangular shaped magnetic would optimize the available space needed to provide the optimal magnetic surface area. There are at least two reasons for optimizing the surface area of the magnetic face on the link. The first reason would be to provide more magnetic surface contact with the skin of the wearer, which allegedly produces more beneficial health affects to the wearer. The second reason would be to improve or change the aesthetical appearance of the bracelet. Kundert discloses that the shape of the link can be changed from a circular shape to an oval shape in order to improve or change the aesthetical appearance of the chain.

#### ***Response to Arguments***

4. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

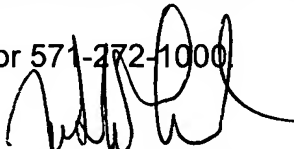
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack W. Lavinder whose telephone number is 571-272-7119. The examiner can normally be reached on Mon-Friday, 9-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jack W Lavinder  
Primary Examiner  
Art Unit 3677

7/28/2006

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